IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1213 OF 1996

Smt. Vidula Arvind Patole ..Petitioner.

Vs.

Collector of Pune & Ors. ..Respondents.

....

None for the Petitioner.

Mrs.S.S.Bhende, AGP for Respondent Nos.1 and 2.

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CORAM : F.I.REBELLO &

DR.D.Y.CHANDRACHUD, JJ.

13th September, 2005.

P.C. :

1. None present for the Petitioner when the matter is called out.

2. Perused the petition and the orders which have been impugned in paragraph 3 of the Petition. The Petitioner has set out that the Petitioner’s parents belonged to "Somavanshi Arya Kshatriya" and

sub-caste "Tambat". It is the case of the Petitioner that the sub-caste "Tambat" is the same as "Hindu- Gadi Lohar". The State Government has notified "Hindu- Gadi Lohar" as a Nomadic Tribe. There is no such notification in so far as the caste "Somavanshi Arya Kshatriya" and sub caste "Tambat" is concerned. It is a settled proposition that a child would acquire the caste of a father.

3. The exercise which the Petitioner wants this Court to do is to hold sub-caste "Tambat" as equivalent to the caste "Hindu - Gadi Lohar". In the matter of SCs, STs, the issue had come up for consideration by the Apex Court. Three Constitution Benches including in **State of Maharashtra v. Milind & Ors**. (2001) 1 SCC 4 have taken the view that it is not open to the High Court to examine the entries by holding that some other caste is also included in the caste as notified. The Apex Court has held that such an exercise is impermissible. In the instant case, we are not concerned with a notification issued under Article 341 or 342 of the Constitution of India. Nonetheless the State Government has issued the

notification. It is, therefore, for the State Government, if the Petitioner’s contention is

right, to issue appropriate notification and not for this Court to examine the contention as urged by the Petitioner. For the aforesaid reasons, rule discharged. There shall be no order as to costs.

(F.I.REBELLO, J.)

(DR.D.Y.CHANDRACHUD, J.)